



# THE CATHOLIC UNIVERSITY OF EASTERN AFRICA

## A. M. E. C. E. A MAIN EXAMINATION

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MAY – JULY 2018 TRIMESTER

FACULTY OF LAW

EVENING PROGRAMME

CLS 206: LABOUR LAW

Date: JULY 2018

Duration: 2 Hours

**INSTRUCTIONS: Answer Question ONE and ANY OTHER TWO Questions**

- Q1. a) Charles Owino the owner of the popular Tavern Waremba hires Sissy Peacock to work as a waitress in his popular drinking establishment. As Sissy is relatively inexperienced at taking orders and serving drinks, Charles outlines her duties in detail and closely supervises her work. Charles also hires Big Marshall to 'bounce' unruly customers out of the Tavern and he informs Marshall that he will be taking orders directly from Charles. Finally Charles hires T.V. repairman Paul Hopkins to fix the broken down colour T.V. set situated in the lounge area. Charles knows that Paul has a criminal records of assault and battery. (In fact the last customer and severely injured him) but he feels certain that Paul has mended his ways and will carry out the job without incident. Charles has agreed to pay Paul Ksh. 25,000 for the repair work and Paul has assured Charles that he has all necessary tools to do the job.

Early Friday evening, Sissy Peacock negligently drops a heavy tray of drink on customer Abigail Larsen injuring her. When Sissy stops to pick up the tray, she cuts her own hand on a sharp piece of broken glass. Bounce Big Marshall socks trouble – maker Merle Goddard on the nose and throws him out of the Tavern. Goddard's nose is broken and his left eye is suspiciously black and blue, T.V. repairman Paul Hopkins is nearly half – finished wit his work when he stops and instigates a fight with customer Roy Bishop who is seriously injured as a result. After all is said and done, can Abigael Larsen, Sissy Peacock, Merle Goddard and Roy Bishop all recover damages for injuries from Tavern owner Owino? Explain your answer in detail. **(15 marks)**

- b) Suppose Sissy Peacock is injured on the job when fellow Cocktail Waitress Susan Awinja negligently drops a heavy tray of bears on her foot? Can Sissy recover damages for her injury from her employer Charles Owino? Explain your answer. **(8 marks)**

Q2. Job applicants insists that employment forms at the IrshadCharnadaria Textile company Ltd are discriminatory in nature. The forms are coloured as follows: green for Indians, yellow for blacks, pink for Orientals and white for Europeans. The applicants also shows that IrshadChandaria Co. shows a distinct, discriminatory preference for hiring black females (The Kenyan Government has recently threaten to several valuable contracts with IrshadChandaria Co. if Irshad does not increase her percentage of women employees). Plant supervisors are also up in arms; they assert that Irshad discriminates by granting raises only to those employees whose quantity and quality of production meet company established standards. Plant labourers, on the other, complain that the graduated pay raises they receive (based on length of service, rather than on quantity and quality of production), are flagrantly discriminatory. And, finally, Hank Moses, who was fired by Irshad when she learned of his membership in the Mormon Church, accuses the company of out and out job discrimination.

Discuss in detail the validity of the charges against Irshard. **(10 marks)**

- Q3. The Labour Relations Act 2007, Laws of Kenya in its dispute settlement mechanism is biased in favor of the Government to the detriment of Employees. Analyze this statement and discuss the mechanism set out in the Act for resolving industrial disputes. **(20 marks)**
- Q4. What do you understand by the term Collective Bargaining? Discuss the requirement for the registration of a valid collective bargaining agreement. **(15 marks)**
- Q4. Outline the key labour legislations in Kenya following to the enactment of the Constitution of Kenya 2010 and Changes in Labour Legislation. **(20 marks)**

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